

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.1246 of 2007

Between:

Kovur Tirupal.

.. PETITIONER

and

The Director General of Police,
State of A.P., Hyderabad
and others.

.. RESPONDENTS

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.1246 of 2007

ORDER:

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The petitioner seeks to issue a Writ of Mandamus declaring the action of the respondents in not properly investigating Cr.No.152 of 2006 of Kodavalur Police Station as illegal and arbitrary and consequently direct the 1st respondent to handover the investigation to the Crime Branch C.I.D. for impartial investigation.

It is the case of the petitioner that he gave a complaint to the police stating that on 14/15-11-2006 at about 2.00 a.m. at Harijanawada, North Rajupalem, Kodavuluru Mandal, Nellore District, his brother Kovur Ramakrishna was murdered by the accused namely (1) Botchu Srinivasulu @ Munthodu; (2) Botchu Solman, (3) Botchu Dass, (4) Karakati Siva Kumar (5) Dakka Hari and (6) Veeri Chalapathi. Basing on the said complaint, the 5th respondent registered a case against the said accused in Cr.No.152 of 2006 for the offences punishable under Sections 302 and 109 read with Section 34 IPC on 15-11-2006. In fact, earlier, the above mentioned accused killed one Chowdam Mallikarjuna, Vice President of INTUC, Nellore of North Rajupalem, and a case in Cr.No.74 of 2006 was registered against them for the offences punishable under Sections 147, 148, 302, 307, 324, 447 and 427 read with Section 149 I.P.C. His deceased brother was a witness in Cr.No.74 of 2006. It is stated that one Botchu Venkamma, who is the mother of A-1 to A-3, uttered before him that one person was already finished by her sons and they would see the end of the petitioner and his deceased brother also.

It is further stated that basing on the complaint filed by the petitioner, police called the dog squad on 15-11-2006 to search culprits and the dog by

name Sweety smelt the blood of the deceased at the scene of offence and then it went to the houses of the accused shown in the FIR except A-6 namely Veeri Chalapathi, who abetted the accused, and the dog brought the blood stained cloths from their houses, i.e., one towel from the house of A-1 to A-3, one shirt from the house of A-4 and one shirt from the house of A-5. The police seized the said cloths. The said investigation was also published in the local newspaper along with the photos of the sniffer dog.

It is further stated that even though the sniffer dog caught hold blood stained clothes from the houses of the accused and police seized the same, after a month of the incident, police are coming with a different version stating that one Gottipudi Anand and one Kommi Suresh murdered the brother of the petitioner. Therefore, the petitioner submits that there is every reason to suspect the bonafides of the Investigating Officer. Hence, he seeks a direction to the 1st respondent to entrust the investigation to the Crime Branch C.I.D.

A counter has been filed admitting that on a complaint lodged by the petitioner on 15-11-2006 against the said six accused persons, a case in Cr.No.152 of 2006 was registered for the offences punishable under Sections 302 and 109 IPC read with Section 34 IPC and the investigation has been taken up. During the course of investigation, as many as 40 witnesses were examined and their detailed statements were recorded. In the investigation, it is revealed that a case in Cr.No.74 of 2006 was registered for the offences punishable under Sections 147, 148, 302, 307, 324, 447 and 427 read with Section 149 I.P.C. against the suspected accused for murdering one Mr.Chowdam Mallikarjuna, who was the follower of the brother of the petitioner herein. There is no direct witness to show that all the accused

committed the offence with which they were charged. The entire evidence adduced during the course of investigation disclosed that one Gottipudi Anand and one Kommi Suresh killed the deceased Kovur Ramakrishna.

From the above facts and circumstances of the case, it is evident that no proper investigation has been conducted by the Investigating Officer. Therefore, I am of the opinion that it is a fit case to entrust the investigation in Cr.No.152 of 2006 of Kodavalur Police Station to the Crime Branch C.I.D.

Accordingly, the writ petition is allowed directing the 1st respondent to entrust the investigation in Cr.No.152 of 2006 of Kodavalur Police Station to the Crime Branch C.I.D., forthwith. There shall be no order as to costs.

14-08-2007

Note:

Issue C.C. in one week.

(B/o)

Prv